

MIDDLETOWN, CT PLANNING AND ZONING COMMISSION
ADMINISTRATIVE BY-LAWS

ARTICLE I

Purpose and Authorization

The objectives and purposes of the Planning and Zoning Commission of the City of Middletown, Connecticut are those set forth in Chapters 124 and 126 of the Connecticut General Statutes, 1995 Revision, as amended, and those powers and duties delegated to the Middletown Planning and Zoning Commission by the aforementioned statutes in the Charter of the City of Middletown Chapter VIII, Sec. 1, as amended.

ARTICLE II

Name

The Commission shall be known as the Middletown Planning and Zoning Commission.

ARTICLE III

Office of Agency

The office of the Middletown Planning and Zoning Commission shall be the Department of Planning, Conservation and Development located in the Middletown Municipal Building, Rm. 202, 245 DeKoven Dr., Middletown, Connecticut, where Commission records will be kept including all official records of the Commission and Subcommittees.

ARTICLE IV

Membership

Section 1. The membership of the Planning and Zoning Commission shall consist of seven (7) regular commissioners and three (3) alternate commissioners. The terms of office and procedure for membership shall be as specified in the Charter of the City of Middletown, Chapter VIII, Sec. 1, as amended. In accordance with the Connecticut General Statutes and the Charter of the City of Middletown, the Mayor and the Director of Public Works shall be ex-officio members.

Section 2. Resignations from the Commission shall be in written form conveyed via hard copy or electronically and transmitted to the Chair and the City/Town Clerk. The City/Town Clerk will then forward same to the Mayor of the City of Middletown.

Section 3. Vacancies: Should any vacancy occur among the members of the Commission by reason of death, resignation or otherwise, notice thereof shall be given to the Chair and the City/Town Clerk. The City/Town Clerk shall transmit

such information to the Common Council who shall appoint a new member in accordance with the City Charter. Should any vacancy occur among the officers of the Commission, the vacant office shall be filled by five (5) affirmative votes of seated members. The newly elected officer is to serve the unexpired term of the officer in which the vacancy shall occur.

ARTICLE V

Election of Officers and Liaisons

Section 1. An annual organization meeting shall be held during the month of November and administered by staff until such officers are elected at same meeting. Election of officers shall be the first item of business. At this time, officers shall be elected and assume the duties of the office and the Code of Ethics and the By-Laws will be reviewed, acknowledged, signed and be made a part of the minutes of the meeting. No other business shall be conducted unless and until the election of officers has occurred. An officer must be a regular member of the Commission. A legal quorum of the Planning and Zoning Commission, six (6) members, shall be present before the election of officers can take place. In the event the organizational meeting does not occur or is cancelled, it will be held at the next regular meeting of the Commission.

Section 2. Nominations shall be made from the members of the Commission at the annual organization meeting and elections of the officers specified in Section 1 of Article VI of these By-Laws shall follow immediately thereafter.

Section 3. A candidate receiving five (5) affirmative votes from seated members present for that commission meeting and voting shall be declared elected and shall serve from the annual organizational meeting in November to the next annual organizational meeting. All votes must be held in public and results of the election stated for the record.

Section 4. At the organizational meeting the Commission will also designate liaison representatives with five (5) votes to the (a) Lower Connecticut River Valley Council of Governments (1 regular, 1 alternate annually) and (b) Citizens Advisory Committee-four (4) year term (when required). All designees are subject to Mayoral nomination to Common Council and confirmation by the Common Council.;

ARTICLE VI

Officers and Their Duties

Section 1. The officers of the Commission shall consist of a Chair, a Vice Chair and a Secretary.

Section 2. The Chair shall preside at all meetings and hearings of the Commission and shall have the duties normally conferred by parliamentary usage on such

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officers. The Chair shall have the authority to call special meetings, sign official documents, ensure that all actions of the Commission are properly taken and generally perform other duties as may be prescribed in these By-Laws including the cancellation of meetings.

Section 3. The Chair shall have the privilege of discussing all matters before the Commission and voting thereon.

Section 4. The Secretary takes attendance and shall read all notices. In the event the Secretary is absent from any meeting, the officer presiding shall designate an acting secretary.

Section 5. Other duties of the Secretary shall be fulfilled by the Planning, Conservation and Development Department staff. These duties shall include the keeping of minutes, transcripts and records of the Commission, preparation of the agenda of regular and special meetings under the direction of the Chair, provide notice of all meetings to Commission members, arrange proper and legal notice of hearings, attend to correspondence of the Commission, and such other duties as are normally carried out by the Planning, Conservation and Development Department staff.

ARTICLE VII

Duties of Alternates

Section 1. In accordance with Section 8-1b of the General Statutes "...alternate members shall, when seated as herein provided, have all the powers and duties set forth in the General Statutes or any special act relating to such municipality for such commission and its members...."

Section 2. The rotation of alternates shall be alphabetical. When a seated member of the Commission is absent or is unable to participate, the Chair of the Commission shall designate an alternate to act, choosing alternates from the rotation as kept by staff and displayed on the agenda. If any alternate is not available in accordance with such rotation, such fact shall be recorded in the minutes of the meeting. Rotation only changes when an alternate serves for an entire commission meeting, or if an alternate is absent at a regular commission meeting, he will go to the bottom of the rotation.

Section 3. Alternates will receive the same materials prior to meetings as are distributed to the regular members of the commission.

Section 4. During public hearings non-seated alternates may speak along with seated Commission members but may not after hearing is closed.

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Section 5. When seated on the Commission, an alternate is bound by the same obligation to disqualify himself in case of conflict of interest as is any other Commissioner, as stated in Section 5, Article XVI of the Bylaws.

ARTICLE VIII Budget of the Commission

The Commission reserves the right to request funds from the Common Council for Commission business with five (5) affirmative votes either directly or through staff.

ARTICLE IX Meetings

Section 1. Regular meetings will be held on the second and fourth Wednesday of each month (excluding November and December) in the Common Council Chamber of the Municipal Building starting at 7 p.m. (unless noticed otherwise). In the event of conflict with legal holidays, staff shall post a notice of such change in the office of the Town/City Clerk.

(a) Staff shall prepare an agenda the week prior to each regular meeting and file a copy in the Office of the Town/City Clerk. Staff shall contact the Commission members a day or two prior to each regular meeting to determine a quorum. Due to lack of a quorum or inclement weather, a regular meeting may be cancelled or re-scheduled at the discretion of the Chair or Vice-Chair when necessary.

(b) The Chair may call a special meeting. Staff shall prepare special meeting notices and mail it with any supporting materials to the Commission members. Special meeting notices shall be filed in the Office of the Town/City Clerk no later than twenty-four (24) hours prior to the scheduled meeting. This 24 hour period may be waived as stated in Chapter 14, Section 1-266(c) of the Connecticut General Statutes, as amended. No other business, other than that presented on the notice shall be considered at such meetings.

Section 2. Six (6) members of the Commission shall constitute a quorum. No votes shall be taken in the absence of a quorum.

Section 3. Decisions shall be approved by an affirmative vote of no less than five (5) commissioners. Voting shall be by voice or if the vote is too close to call, Chair or Commission member may request a roll call vote by each Commission member or a show of hands. Motions in the affirmative which are not passed shall be taken as being denied. Votes may be reconsidered if a motion to reconsider with new conditions is made by a member who voted in opposition at the previous vote. Votes can only be reconsidered the night of the original vote.

Section 4. No member of the Planning and Zoning Commission shall participate in the hearing or decision of the Commission upon any matter in which he is directly

or indirectly interested in a personal or financial sense. Members shall disqualify themselves in accordance with Chapter 124, Sec. 8-11 as amended and Chapter 126, Sec. 8-21 of the Connecticut General Statutes. In the event of such disqualification, such fact shall be entered on the records of the Commission and an alternate will replace the Commission member, as detailed in Article VII of these By-Laws. Disqualified commissioners must leave the room prior to discussion on the matter and may be summoned to return when the discussion has ended.

Section 5. No Commissioner, , may participate in the decision of the Commission of any matter in which he has not completely familiarized himself with the application under consideration. In order to be sufficiently prepared to vote, each commissioner shall review all plans, transcripts, pertinent reports, correspondence, audio/visual recordings of meetings when absent, and other supporting documents. Site Visits may be scheduled by the Commission with the understanding that the property owner be notified and a special meeting notice of such site visit be filed by staff in the Office of the Town/City Clerk.

Section 6. All Commission meetings shall be open to the public. Executive sessions may be held upon five (5) affirmative votes of the seated Commission members present and voting at the public meeting and stating the reasons for the executive session, as defined in Section 1-200(6) of the Connecticut General Statutes, as amended.

Section 7. Unless voted on by five (5) affirmative votes of those Commission members seated, the Order of Business at regular meetings shall be:

- (1) Pledge of Allegiance. 7:00 p.m.;
- (2) Roll Call. ;
- (3) Items removed from the Agenda ;
- (4) Public comment on items on agenda which are not currently scheduled for a public hearing;
- (5) Confirmation that all hearing signs have been properly noticed;
- (6) Public Hearings ;
- (7) Old Business;
- (8) New Business;
- (9) Public comment on topics which are not or have not been the subject of a public hearing;
- (10) Minutes, Staff Reports and Commission Affairs;
- (11) Adjournment

Section 8. The Planning and Zoning Commission regular and special meetings shall conclude by 11 pm. The Chair shall announce that the meeting is close to conclusion at 10:30 pm. At such time the Chair shall announce that all remaining agenda items will be tabled until the next regular meeting. The meeting may continue past 11 pm but not past midnight, if a motion is made and receives five (5) affirmative votes to continue the meeting. (Amended March 25th, 2009)

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Section 9. If a Commission member must leave a meeting for any duration, he must notify the Chair. The Chair shall note the time for the record and, if necessary, appoint the next alternate per Article VII of these By-Laws.

Section 10. Proceedings of the meeting shall be summarized and posted in accordance with Chapter 14 (Freedom of Information Act) of the Connecticut General Statutes, as amended. .

Section 11. Unless otherwise specified, the current revised edition of Roberts Rules of Order for meetings shall govern the proceedings at the meeting of the Commission and will be provided by staff. When Roberts Rules is cited by a commission member, the exact reference from Roberts Rules must be given and verified.

ARTICLE X

Public Hearings

Section 1. The Commission may hold public hearings, in addition to required hearings, when it decides that such hearings will be in the public interest with proper notice. No public hearing may be held during the current meeting. A vote consisting of five (5) affirmative votes shall be taken to place a public hearing on a future agenda. Public hearings may be scheduled without a vote by the Commission for applications when a hearing is required by the Middletown Zoning Code or the Middletown Subdivision Regulations.

Section 2. All public hearings prescribed by law shall be held in accordance with the requirements set forth for such hearings in Chapters 124 and 126 of the Connecticut General Statutes, as amended.

Section 3. Staff shall take the testimony, or the evidence by a recording device, at each hearing before the Commission in which the right to appeal lies to the Superior Court. (Chapter 124, Section 8-7a, Connecticut General Statutes, as amended).

Section 4. At no time shall the Commission interact with the public in a conversation or debate on the matter of discussion.

ARTICLE XI

Conducting the Public Hearing

Section 1. The Chair of the Commission shall preside at the public hearing. In event of the Chair's absence, the Vice Chair or the Secretary shall act as presiding officer.

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Section 2. The Secretary shall acknowledge legal notices have been posted. .

Section 3. The matter before the Commission shall be presented by the applicant or a representative. Comments and/or questions from the Commission or staff will follow.

Section 4. The Chair shall then call for questions and comments from the public on each specific item. The Chair reserves the right to provide a sign-up sheet for the public to be used to determine the order in which the public speaks. Comments shall be limited to the subject noticed for hearing.

Section 5. The applicant and/or his representative will answer questions and/or respond to comments following the public input to the Commission. Comments and/or questions from the commission and/or staff may occur at any time at the discretion of the Chair. Commission members may request clarification or additional information from a member of the public when recognized by the Chair.

Section 6. All Commissioners must be recognized by the Chair prior to asking questions or making comments.

Section 7. All persons recognized shall approach the hearing table in order to facilitate proper recording of comments. Before commenting on the matter before the hearing, each person shall state their name, residence and town. The public is encouraged to submit documents to staff in the Planning, Conservation and Development Department in advance. If a member of the public has presented documentation to the Commission, staff shall be responsible to distribute it to each commissioner. Any written or graphic material shall be submitted to staff for inclusion into the public record. Public comment is limited to five (5) minutes. If a member of the public requires more than five (5) minutes, he will be asked to return when all members of the public have spoken.

Section 8. The Chair shall assure an orderly public hearing and meeting and shall take necessary steps to maintain the order and decorum of the hearing at all times. The Chair shall reserve the right to terminate the hearing in the event the discussion becomes unruly and unmanageable.

Section 9. A hearing shall be conducted only for the purpose of taking testimony to be considered in deliberations of the regular meeting of the Commission. The show of hands by those persons present shall not be allowed as a method to demonstrate a pro or con opinion on any general question presented at the public hearing.

ARTICLE XII

Submission of Applications

Section 1. Prior to submitting an application to the Commission, the applicant should consult with the Department of Planning, Conservation and Development or appropriate staff to help ensure that the requirements and design objectives of the applicable regulations are fulfilled. Submission of applications to necessary city departments will be handled by staff. Discussion of the application with other City staff members can be arranged by staff when appropriate. However, the ultimate responsibility of a complete application lies with the applicant.

Section 2. Applications shall be submitted in accordance with the Middletown Zoning Code and the Middletown Subdivision Regulations. Section 3. Items which do not have all staff reports and/or revised plans available for distribution the Friday prior to the meeting shall be removed from the agenda or in the case of public hearings, a notation shall be placed in the packet "Not ready to proceed", and so noted on the agenda.

Section 4. Acceptance of an application by the Planning, Conservation and Development Department Staff shall constitute acceptance by the Commission, and the date of receipt of an application shall be in accord with Chapter 124, Section 8-7d of the Connecticut General Statutes, as amended. Applications shall include all of the data required by the Middletown Zoning Code or Subdivision Regulations of the City of Middletown.

Section 5. No application shall be scheduled for a public hearing until that time when the staff determines that the application is complete and satisfies the general requirements for the type of application. Incomplete applications not completed by a second meeting shall appear as New Business and may be denied without prejudice. The agenda, public hearing legal notice, staff and departmental comments, minutes, reports and any additional documentation will be mailed separately to the Commission members by staff the Wednesday prior to each regular meeting.

[Section 5 requires further discussion by the Commission.]

Section 6. When an application does not require a public hearing, the applicant must make an initial appearance before the Commission, (i.e. the first time the application is listed on the agenda) to present and explain the application. Subsequent appearances may be necessary to ensure full consideration of the application.

ARTICLE XIII

Consulting

The Planning and Zoning Commission shall have regular staff available to them and may employ consultants within the limits of funds available to aid the

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Commission in its work. Employment shall be in accordance with the City procedures.

ARTICLE XIV Special Committees

Special committees can be created at any commission meeting with five (5) affirmative votes of the Commission and the purpose and goal of the committee must be clearly stated. Upon final report to the Commission the Committee ceases to exist.

All Standing and Special committees must follow Freedom of Information (FOI) procedures for meeting notices and minutes and report back to the Planning and Zoning Commission on the progress.

ARTICLE XVI Standards of Ethical Conduct

Section 1. DECLARATION OF POLICY.

The Commission shall conduct itself pursuant to the Middletown Code of Ethics as set out in Chapter 40 of the Code of Ordinances and the By-Laws as adopted and amended by the Middletown Planning and Zoning Commission. If a conflict arises between the Code of Ethics and these By-Laws the stricter, higher standard shall apply.

Section 2. DEFINITIONS.

(a) Financial Interest means any interest that may, or is intended to, result in a monetary or other material benefit to a Commissioner , either directly or indirectly that has a fair market value of more than \$50.00 and that is not common to the interest of all other citizens of the City.

The following financial interests shall be imputed to be those of a Commissioner : that of an applicant before the Commission, in which the Commissioner or any member of his immediate family has any direct or indirect interest as the proprietor, by ownership of stock or partnership interest and that of a contractor or subcontractor of the City, in which the official or employee or any member of his immediate family has any direct or indirect interest as the proprietor by ownership of stock or partnership interest.

(b) Personal Interest as distinguished from financial interest shall include but is limited to, any interest arising from a family relationship or business association.

(c) Transaction means the offer of, or the sale, purchase or furnishing of any real estate or personal property, or services, by or to any person or entity directly or indirectly, as vendor or vendee, prime contractor, subcontractor or otherwise, for the use and benefit of the City or of such other person or entity, for a valuable consideration. For the purposes of this Article, a gift that has a fair market value of \$50.00 or more from any person, organization, institution, political action committee, or political party shall be considered a Transaction.

(d) Employment means any contract or agreement to provide any services of any kind and for any duration, whether as an employee or independent contractor, for any valuable consideration irrespective of whether those services have actually been performed.

Section 3. PERSONS COVERED.

All Planning & Zoning Commission members shall be bound by the Middletown Code of Ethics and these standards.

Section 4. STANDARDS OF CONDUCT.

(a) No Commissioner shall participate in the public hearing or the discussion of a matter before the Commission if he has either direct or indirect personal or financial interest in the matter before the Commission. A Commissioner shall disqualify himself in accordance with Chapter 124, Sec. 8-11 as amended and Chapter 126, Sec. 8-21 of the Connecticut General Statutes. In the event of such a disqualification, such fact shall be entered into the records of the Commission and an alternate will replace the Commission member, as detailed in Article VII of these By-Laws.

(c) Commissioners shall conduct themselves with reasonable propriety, discharge their duties impartially and fairly and make continuing efforts toward attaining and maintaining high standards of conduct. Officials and employees should make every reasonable effort to avoid even the appearance of impropriety.

(d) Commissioners shall treat each member of the public with whom they have contact in their official capacities professionally, courteously, impartially and fairly. No Commission member or alternate shall grant any special consideration, treatment or advantage to any citizen beyond that which is available to every citizen.

(e) Commission members or alternates may not use their official authority or influence for the purpose of interfering with or affecting the result of an election or a nomination of office or item/vote before the Commission. Commission

members or alternates shall not, directly or indirectly, coerce, attempt to coerce, command or advise any person or organization to pay, lend or contribute anything of value to a party, committee, or organization, agency or person for political purposes. This provision shall not be construed to prohibit statements made at public meetings or hearings, or public statements otherwise covered by the guarantee of freedom of speech.

(f) No Commissioner , while still in the service of the City, shall negotiate for, seek or accept employment with any business subject to regulation by the Commission.

(g) No former Commissioner who substantially participated in the negotiation or award of such contract shall seek, accept, or hold employment with a party to the contract for a period of one year after the signing of the contract.

Section 5. CONFLICT OF INTEREST.

(a) No Commissioner shall have a financial or personal interest, directly or indirectly, in any transaction with any City agency in which he has the power to take or influence official action. A contract in violation of this section is voidable at the option of the Common Council. For the purposes of this section, any transaction or contractual relationship that is in effect at the time such interested official or employee is selected or employed shall remain in effect for the duration of the transaction or contract if a term is specified. If no term is specified then such transaction or contract shall remain in effect for a reasonable period of time not to exceed one year from the date the official or employee assumes the duties of his office or employment.

(b) If a Commissioner has any direct or indirect financial or personal interest in the outcome of any matter coming before the Commission, such Commissioner shall disclose on the record the existence of such financial or personal interest. Such Commission member or alternate shall not be required to disclose the nature of the interest. A Commissioner having such an interest shall nonetheless recuse himself from acting on the matter, and shall not participate in deliberations concerning the matter, and shall not discuss or influence any Commissioner .

(c) The provisions of this section shall not apply if the financial interest and the majority of the Commission considering the matter concludes that such financial or personal interest is sufficiently remote from the matter to be merely incidental. The Commission member or alternate shall not participate in this determination.

(d) Nothing herein shall be interpreted or construed to prohibit or restrict any Commission member or alternate from appearing before any board or

commission of the City in his own behalf, or being a part in any action, proceeding or litigation brought by or against the employee or official to which the City is a party. When appearing before an agency in the Commissioner's own behalf, the Commissioner must make his position as a Commissioner known and that he is speaking as an individual, as a matter of public record or being a party in any action or litigation to which the City is a party. Approval from the Planning and Zoning Commission is not necessary.

Section 6 GIFTS, GRATUITIES AND FAVORS.

No Commissioner shall accept, from any source during a period of one (1) year any thing or things exceeding fifty (\$50.00) dollars in total value as a gift, gratuity or favor, whether in the form of a service, loan, thing or promise, from any person who or entity which to the knowledge of the official or employee has the interests of the public at large, in a transaction with any City agency as to which he has the power to take or influence official action.

Section 7. ACKNOWLEDGMENT.

Every two (2) years at the Planning and Zoning Commission meeting that immediately follows the Municipal Election, the City of Middletown Code of Ethics and these By-Laws shall be distributed to each regular and alternate member of the Commission. Each regular and alternate member shall acknowledge and sign receipt of the Code of Ethics and By-Laws and agree to be bound by their terms on the Acknowledgement Form attached to the By-Laws.

In the event a vacancy of a regular or alternate member occurs, the new member replacing that seat shall follow the procedure as listed above.

Staff to the Commission shall be responsible for distributing updated copies as listed above and for keeping copies of the Acknowledgements on file for public record in the Planning, Conservation and Development Department.

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**CITY OF MIDDLETOWN
STATEMENT OF ETHICAL CONDUCT
ACKNOWLEDGMENT OF RECEIPT AND AGREEMENT TO BE BOUND**

I, acknowledge that I have received, read and understand the provisions of Chapter 40 of the Middletown Code of Ordinances (Code of Ethics) and the By-Laws of the Planning and Zoning Commission.

I hereby agree to abide by the provisions of Chapter 40 of the Middletown Code of Ordinances and the Commission By-Laws, as amended or revised and to conduct the performance of my obligations as an official of the City of Middletown in accordance with its provisions and, to the extent applicable, limit my activities after the termination of my term of office in accordance with its provisions.

Official Name (Type or Print)

Official Signature

Date Signed

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ARTICLE XVII

Repealer

These By-Laws constitute a replacement for the procedural policies for the City Planning and Zoning Commission dated February 27, 1991, July 10, 1996, January 14, 2004, March 25, 2009, and March ____, 2021.

ARTICLE XVIII

Amendments

These By-Laws may be amended at any regular meeting of the Commission provided that the proposed amendment is presented to the Commission at a prior regular meeting.

Amended: July 10, 1996

Amended: January 14, 2004, March 25, 2009, August 26, 2009, February 12th, 2014, February 26th, 2014, and March ____, 2021.